Re CHNG KIAT LENG

[O.C.J. (Thomson C.J.) August 28, 1962]

[K.L. — Petition for Admission No. 7 of 1962]

Advocates and Solicitors — Admission — Dispensation in relation to notices — Dispensation from reading in chambers — Different considerations apply — Public interest — Public Notice — Examination of candidate — Failure to proceed with — Mandamus.

The petitioner filed a petition for admission to the Federation Bar on February 17, 1961, of which notices were subsequently posted in the Courts of the various States. On September 27, 1961, the petitioner by letter requested the Bar Council to examine him in accordance with section 7(1)(a) of the Advocates and Solicitors Ordinance, 1947. On his attending the Examination Board on October 14, 1961, the Board refused to examine the petitioner on the ground that he was not an advocate and solicitor of the Supreme Court of Singapore. The petition having lapsed the petitioner, on March 29, 1962, filed a new petition for admission and applied for dispensation in relation to the posting of notices on the ground that the delay of the Bar Council in giving its decision resulted in the original petition having lapsed:

Held: the indulgence should be granted as sufficient public notice had been given as to the applicant's intention to apply for admission to enable anybody who knew anything against his character and suitability to come forward and speak.

Obiter: Where a petitioner is dissatisfied with the examiners in not proceeding with the examination, the proper course for him is to raise the matter in appropriate proceedings by way of mandamus.

Observations on the different tests to be applied in relation to dispensation from the period of posting notices and dispensation from reading in chambers.

PETITION FOR ADMISSION.

M. W. Maxwell for the petitioner.

Harun Hashim (Federal Counsel) for the Attorney-General.

R. Ramani for the Bar Council, Federation of Malaya.

Robert K. C. Hoh for the local Bar Committee.

Thomson C.J. (delivering oral judgment): It seems to me that when the Court is called upon, as here, to consider the question of dispensation in relation to notices apart from the question of dispensation from reading in Chambers different considerations must apply from those which apply when dispensation from reading in Chambers is asked for.

In both cases, of course, the public interest must be paramount. But in the case of dispensation from reading in Chambers the question is, has the applicant had such experience or so forth that it is in the public interest he should be allowed to practise without serving 12 months' pupillage? In relation to notice the question is, has sufficient public notice been given as to this applicant's intention to apply for admission to enable anybody who knows anything against his character and suitability to come forward and speak?

If that be the position then I think I am compelled to grant the indulgence now asked for, partly because of the total period of time during which the notices have in fact been exhibited and in the second place, and this is very important in case the question should crop up again, because of the very short interval that elapsed between the end of the first portion of the period and the beginning of the second portion of the period. Had there been a longer gap one would have had to consider very carefully whether or not it was long enough for the original notices to have been forgotten and in the meantime for the applicant to have incurred some sort of stigma. In view of the very, very short interval that did elapse here that possibility is so unlikely that it can be disregarded.

I am very reluctant to take the matter any further, and if I do it is on the basis that I make it very clear that anything I say now is said *obiter*.

I agree with the opinion, which has obviously actuated the Bar Council, that it is necessary for an applicant for admission when he presents his petition to take his stand on one or other of the two alternative bases of qualification. When I talk about the two alternative bases of qualification I mean on the one hand the basis which requires reading in Chambers and residence in the Federation and on the other hand the basis that excludes that requirement. It seems to me that the wording of the Ordinance is so evenly balanced between the two possible views that the public interest and public convenience must tip the scales one way or another and that the public interest and public convenience do tip the scales in the direction I have indicated.

In all the circumstances it seems to me that in the present case the examiners were abundantly right in warning the applicant as to his position. I think, however, that the applicant having been warned as to his position and thus having had the opportunity of realising the probable consequences of what he was doing the examiners should have proceeded to the examination of the candidate. And having said that word by way of criticism of the examiners I hasten to add by way of criticism of the applicant that his proper course if he were dissatisfied was to raise the matter in appropriate proceedings by way of mandamus.

The application is granted as prayed.

Application granted.